



STATE OF TENNESSEE WAIVER REQUEST

Waiver Subject:

Eligible Training Provider List - Reporting

Statutory and Regulatory Requirement:

Tennessee is seeking a waiver of Workforce Innovation and Opportunity Act (WIOA) Section 116(d)(4)(A) information specifying the levels of performance achieved with respect to all individuals engaging in the program of study (or the equivalent); and 20 CFR Part 677.230(a)(5) the levels of performance achieved for the primary indicators of performance with respect to all individuals engaging in a program of study (or the equivalent) to permit Eligible Training Providers (ETPs) to collect and report performance data only for WIOA-funded participants.

Background:

Tennessee has 159 providers on the Eligible Training Provider List (ETPL). WIOA requires states to maintain a list of entities certified providers to accept students using WIOA funds. This list is used by participants when researching career and training options based on their career goals. WIOA expanded the eligible training provider lists for technical and occupational classroom training programs and strengthened the provisions regarding training provider eligibility.

While the Tennessee Department of Labor and Workforce Development (TDLWD) recognizes the significance of monitoring provider performance by requiring ETPs to produce data on all individuals, the excessive data to collect, to enter and to report positions an undue burden on the ETPs. It is burdensome particularly when ETPs have a small percentage of WIOA participants with numerous non-WIOA students. The burden is something that the United States Department of Labor (USDOL) and the Department of Education (DOE) acknowledge in their response to comments concerning §677.230 in the preface of the WIOA Final Rule as it stated, "The Departments are cognizant of the reporting burden the ETP performance report places on ETPs and do not want to place additional burden on these entities."

Additionally, ETPs and TDLWD are concerned that providing data on all individuals instead of only WIOA funded participants, may conflict with the Family Educational Rights and



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Privacy Act (FERPA), which protects the privacy of student education record. As a rule, schools must have written permission from the parent or eligible student to release any information from a student's education record (34 CFR Part 99.30). Thus, Releasing student information on individuals who are not workforce system participants without their permission may be in violation of federal law and compromise their personally identifiable information (PII).

Waiver Request:

Request to allow Tennessee to collect and report performance data for all WIOA-funded participants.

Reason for the Request:

- Reducing ETPs' reporting requirements to include only WIOA-funded participants would save a significant amount of time and expense to allow ETPs to focus on education and training outcomes while still providing the required data on WIOA-funded participants.
- Not reporting data for individuals who are not WIOA participants would reduce ETPs' liability for potential breach of those individuals' PII.
- The outcome of approving this waiver will ease undue reporting burden on ETPs hence they can focus more time and resources on producing successful performance report. It will also ensure protection on Non-WIOA participants' PII.

Goals and Outcomes:

TDLWD will continue to collect data from ETPs on their WIOA-funded participants and will submit that data via TDLWD's annual report to DOL.

- Connects education and training strategies by reducing the reporting burden on ETPs, thus allowing them to focus more time and resources on producing successful outcomes for WIOA-funded participants; and
- Further protects the privacy rights of ETPs' students who are not WIOA participants.
- ETPs will be more prepared to submit data on their WIOA-funded students and to remain in the ETP program, subsequently allowing TDLWD continue with it effective consistent customer service delivery.



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Individuals Impacted by this Waiver:

- Tennessee's current and future training providers
- Individuals who receive training by providers on the ETPL

Opportunity for Local Board and Public Comment on Waiver Request:

The waiver request will be posted on the TDLWD's website for thirty (30) days and for public review and comment, and for comments from our partners. Consistent with general waiver request requirements, TDLWD is adhering to publication requirements to ensure the broadest participation possible including informing appropriate youth program partners such as schools, labor and community based organizations. This waiver has is developed in consultation with LWDBs.